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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,473	04/30/2001	Daniel P. Kusmer	1391-19601 DAR	3037

7590 10/29/2004

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EXAMINER

GAY, JENNIFER HAWKINS

ART UNIT PAPER NUMBER

3672

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/845,473

Applicant(s)

KUSMER, DANIEL P.

Examiner

Jennifer H Gay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 12-14 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the paper filed 26 April 2004.

### *Drawings*

2. The drawings are objected to because Figures 16-18 do not contain any reference numbers that the examiner considers necessary for a complete understanding of the claimed invention. Applicant is reminded that any reference numbers added to Figures 16-18 must be located in or added to the specification.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 102a, 102b, 122a, 122b, 140a, 140b, 142a, 142b, 162a, 162b, 158a, 158b, 166, 124, 118, 158, and 402.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 152 and 168.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Semar (US 4,542,788).

*Regarding claim 1:* Semar discloses an apparatus for retaining a well tool within a wellbore. The apparatus includes the following features:

- A first and second tapered members **24** and **26** oppositely disposed on a camming member **22** disposed between the first and second members along the longitudinal axis of the tool.
- The first and second members have a contracted position (Figure 1) on the camming member not engaging the wellbore wall and an expanded position (Figure 2) engaging the wellbore wall.

*Regarding claim 2:* The apparatus includes an actuation assembly moving the tapered members between the expanded and contracted positions.

*Regarding claim 3:* The actuation assembly includes a piston and cylinder **32** and **34**.

*Regarding claim 4:* The actuation assembly includes a return spring **36** biasing the piston.

*Regarding claim 5:* The tapered members, camming member, and the actuation member are disposed on a common mandrel (Figures).

*Regarding claim 6:* The tapered members are disposed on a common mandrel with the tapered members extending over 180° around the mandrel (Figure 3).

*Regarding claim 7:* The tapered members include tapered surfaces, a portion of which extends on each side of the mandrel (Figure 3).

*Regarding claim 8:* The tapered members and camming member have inter-engaging surfaces with the mandrel that prevent relative rotation with respect to the mandrel (3:7-18). The examiner notes that the tapered members and the camming member are locked together (Figure 3) thus both features are prevented from rotating relative to the mandrel by the tapered members being secured to the mandrel.

*Regarding claim 11:* Semar discloses an apparatus for anchoring a well tool within a wellbore. The apparatus includes an extendable member **24** and **26** and a double-sided wedge device **22** to actuate the extendable member. The wedge device includes a first and second tapered surface, i.e. the radial opposite sides of the wedge.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Semar (US 4,542,788) in view of Baker (US 2,878,877).

Semar discloses all of the limitations of the above claims except for the apparatus including biasing members forcing the tapered members and the camming member apart.

Baker discloses a wellbore tool retaining apparatus similar to that of Semar. Baker further teaches biasing members **42** that force tapered members **19** and a camming member **20** apart as the camming member is being moved upward relative to the tapered members.

It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have modified Semar to include biasing members to force the tapered members and the camming members apart as taught by Baker in order

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to have maintained the tapered member in a fully extended position when the camming member was moved away from the tapered members (5:18-25). One would have been motivated to make such a combination because a secure retaining or anchoring system would have been obtained, as inferred by Baker.

### ***Allowable Subject Matter***

10. Claim 10 is allowed.

### ***Response to Arguments***

11. In view of applicant's amendment the objections to the specification and claims has been withdrawn. The objections to the drawings have been repeated merely because the changes to the drawings were not presented in the proper format, see paragraph 5. The substance of the changes is considered acceptable to overcome the objections if presented in the proper format.

12. Applicant's arguments filed 10 September have been fully considered but they are not persuasive.

Applicant has argued that Semar does not teach a first and second tapered member oppositely disposed on a camming member disposed axially between the first and second tapered members. The examiner notes that the term "axially" has not been defined in claim 1 therefore it is unclear to the examiner as to what axis applicant is referring. The claimed tool and that disclosed by Semar contain many axes along which the different features of the tools may lie.

Applicant has further argued that Semar does not teach a double sided wedge device that includes a first and second tapered surface on opposite axial sides. Again the term "axis" has not been defined in claim 11.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

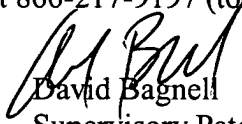
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer H Gay whose telephone number is (703) 308-2881. The examiner can normally be reached on Monday-Thursday, 6:30-4:00 and Friday, 6:30-1:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (703) 308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David Bagnell  
Supervisory Patent Examiner  
Art Unit 3672

JHG   
October 20, 2004